IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Budh Ram. Versus State of Rajasthan & Anr.

S.B. Criminal Revision No. 419/2006 against the Order dated 27-4-2005 passed by the Additional Sessions Judge No.1, Sri Ganganagar in Criminal Appeal No.37/2005.

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Date of Order: June 01, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. G.J. Gupta, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal revision petition under Section 397/401 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has assailed the judgment and order dated 27-4-2005 passed by the Additional Sessions Judge No.1, Sri Ganganagar (for short, "the Appellate Court" hereinafter) in Criminal Appeal No.37/2005, whereby the appeal filed by the petitioner against the judgment and order dated 13-12-2004 passed by the Judicial Magistrate, Sri Ganganagar (for

short, "the trial Court" hereinafter) in Criminal Case No. 148/2004, has been dismissed and the sentence of two months simple imprisonment awarded to the petitioner by the trial Court for the offence under Section 138 of the Negotiable Instrument Act, 1881 (for short, "the Act" hereinafter) has been affirmed, as also the compensation awarded by the trial Court. Aggrieved by the judgment and order impugned, the petitioner has filed the instant criminal revision.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the judgment and order impugned.

At the very out-set, learned counsel for the petitioner submits that the petitioner does not want to challenge his conviction; however, learned counsel for the petitioner has confined his arguments on the point of substantive sentence and submits that out of the sentence of two months, the petitioner has already suffered the imprisonment for one month and twenty-one days and, therefore, a large portion of sentence has already been undergone by the petitioner and as such the sentence awarded to the petitioner may be reduced to the period of imprisonment already undergone by him.

There is concurrent finding of fact recorded by both the Courts below holding the petitioner guilty for the offence under Section 138 of the Act and, therefore, the learned counsel

for the petitioner is fair enough in not assailing the order of conviction.

Having regard to the facts and circumstances of the case and the fact that out of the sentence of two months, the petitioner has already undergone the imprisonment for one month and 21 days, in my view, the ends of justice would be met if the substantive sentence awarded to the petitioner is reduced to the period of imprisonment already undergone by him.

In the result, the revision petition is dismissed. While maintaining the conviction of the petitioner for the offence under Section 138 of the Negotiable Instruments Act, 1881, and the order for payment of compensation under Section 357 Cr.P.C. passed by the trial Court, the substantive sentence of imprisonment awarded to the petitioner is reduced to the period of imprisonment already undergone by him. The petitioner is in jail. He be set forth at liberty, if not required in any other case. The bail application No.105/2006 seeking suspension of sentence stands disposed of.

(H.R. PANWAR), J.

mcs